

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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YVES SAINT LAURENT PARFUMS S.A. and YSL	:	ECF CASE
BEAUTÉ INC.,	:	
	:	
Plaintiffs,	:	Civil Action No.
	:	07 Civ. 3214 (LBS)
- against -	:	
	:	
	:	
COSTCO WHOLESALE CORPORATION,	:	
	:	
Defendant.	:	
	:	
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DECLARATION OF ROBERT L. PUGMIRE

ROBERT L. PUGMIRE declares:

1. I am Vice President-General Merchandise Manager, Non-Foods, for Costco Wholesale Corporation, the defendant in this action. In that capacity, among other things, I supervise approximately 29 Costco buyers.
2. This Declaration is submitted in support of Costco's Rule 72 Objections to Magistrate Judge Pitman's Order dated September 21, 2007, and Costco's Motion for Protective Order. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would competently testify thereto under oath.
3. Costco's business consists of providing its member customers with a wide variety of quality merchandise, including name brand merchandise, at reasonable prices.
4. Costco's selection of and relationship with its vendors are of vital importance to Costco's business. Costco's ability to offer quality merchandise to its customers at reasonable prices is directly dependent on its sources of merchandise, on its ability relative to that of its competitors to source merchandise and to purchase at favorable prices, and on its ability to maintain relationships with suppliers and access to the merchandise they offer.
5. Many of Costco's purchases of merchandise are made directly from the manufacturer of the merchandise or from the manufacturer's "designated" distributors. Other Costco purchases are in "secondary markets," meaning that the merchandise is purchased from vendors that are neither the manufacturer itself nor the manufacturer's "designated" distributors.

6. Costco's subsidiary, National Clothing Company d/b/a National Distributors ("National") is responsible for secondary market purchases of certain types of merchandise including, for example, health and beauty products. National buyers are responsible for locating opportunities to purchase and offer to Costco's members high-end merchandise that Costco is unable to buy directly from manufacturers.

7. It is the strict policy and consistent practice of Costco and National to treat as extremely sensitive trade secret information the identities of its vendors for secondary market purchases. Costco and National go to great lengths to keep confidential the identities of these vendors.

8. Confidentiality is especially critical when purchasing merchandise in the secondary market. Many vendors fear reprisals and other measures from manufacturers for selling merchandise to Costco or National. Such reprisals and measures could include, for example, publicizing the vendor's name, threatening "designated" distributors if they sell goods to an identified vendor, or alerting manufacturers of other products that the identified vendor may be a likely source of merchandise that Costco sells. If Costco or National discloses a vendor's identity, the manufacturer might also attempt to eliminate the vendor's source of supply by terminating the "designated" distributor who sells to that vendor, or by forcing the "designated" distributor to raise its prices.

9. Vendors are more willing to sell to Costco and National because they know that Costco and National will protect their identities.

10. Vendors who supply merchandise to Costco and National often supply goods produced by many different manufacturers. If Costco or National were forced to disclose the identity of these vendors, it would risk interruption of their access to a source, not only of the merchandise of the manufacturer of the particular merchandise, but perhaps of other merchandise as well.

11. Employees who have knowledge of or interaction with Costco's and National's secondary market vendors are continuously aware of the critical importance of keeping the identity of vendors confidential, as are companies with whom Costco contracts. Costco and National take great effort to assure that the dissemination of information regarding its vendors is restricted.

a. Although National employees have their offices at Costco's headquarters in Issaquah, Washington, their offices and workspaces are in a single area, not intermixed with those of other Costco buyers and employees.

b. Purchase orders and related documents for National's purchases are kept on a computer software system that is separate from the system used for other purchase orders. Access to the system is restricted by the Information Systems department to specific National employees, a few members of Costco's legal department, and one member of Costco's accounting department.

c. Costco buyers who purchase directly from manufacturers and their “designated” distributors (“in-line buyers”) are assigned to particular categories of goods, such as electronics or apparel. Although there is some interaction between National’s secondary-market buyers and Costco’s in-line buyers with responsibility for the same type of merchandise, National secondary-market buyers generally do not disclose the identity of their vendor(s) even to the Costco in-line buyers. In those rare circumstances where a Costco in-line buyer has learned the identity of a secondary-market vendor, the in-line buyer has continued to maintain the confidentiality of that information and has not disclosed it to persons outside Costco or National.

12. In addition, all Costco employees (including National employees) are governed by the confidentiality provisions of Costco’s Employee Handbook. The relevant sections are attached hereto as Exhibit “A.”

13. Costco’s and National’s general policies and procedures relating to confidentiality with respect to the identity of vendors of secondary-market merchandise were and are followed in connection with the genuine YSL-branded goods at issue in this case.

14. Costco and National have not advised anyone outside of Costco or National (other than Costco’s attorneys in this matter) of the identity of the vendor(s) from whom Costco or National have purchased or currently purchase genuine YSL-branded goods.

15. For each of the reasons set forth in this declaration—including but not limited to the desire to prevent manufacturers from retaliating against “designated” distributors and vendors, and the desire to avoid the loss of access to the products not only of YSL but also of other manufacturers whose merchandise is or might in the future be supplied by that vendor—the identity every vendor of secondary-market merchandise to National and Costco, in general, and the identity of National and Costco’s supplier of genuine YSL-branded goods, in particular, is extremely sensitive and valuable trade secret information.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Executed at Issaquah, Washington this ____ day of September, 2007.


ROBERT L. PUGMIRE